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SENATE BILL 404

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AUTHORIZING EXPENDITURES FROM CERTAIN FUNDS AND BALANCES; CLARIFYING CONDITIONS FOR THE ISSUANCE OF BONDS; ESTABLISHING CONDITIONS FOR THE EXPENDITURE OF SEVERANCE TAX BOND PROCEEDS; ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--  
APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not to exceed the total of the amounts authorized for purposes specified in this act. The state board

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1 of finance shall schedule the issuance and sale of the bonds in  
2 the most expeditious and economical manner possible upon a  
3 finding by the board that the project has been developed  
4 sufficiently to justify the issuance and that the project can  
5 proceed to contract within a reasonable time. The state board  
6 of finance shall further take the appropriate steps necessary  
7 to comply with the Internal Revenue Code of 1986, as amended.  
8 Proceeds from the sale of the bonds are appropriated for the  
9 purposes specified in this act.

10 B. The agencies named in this act shall certify to  
11 the state board of finance when the money from the proceeds of  
12 the severance tax bonds authorized in this section is needed  
13 for the purposes specified in the applicable section of this  
14 act. If an agency has not certified the need for the issuance  
15 of the bonds for a particular project, including projects that  
16 have been reauthorized, by the end of fiscal year 2011, the  
17 authorization for that project is void.

18 C. Before an agency may certify for the issuance of  
19 severance tax bonds, the project must be developed sufficiently  
20 so that the agency reasonably expects to:

21 (1) incur within six months after the  
22 applicable bonds have been issued a substantial binding  
23 obligation to a third party to expend at least five percent of  
24 the bond proceeds for the project; and

25 (2) spend at least eighty-five percent of the

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1 bond proceeds within three years after the applicable bonds  
2 have been issued.

3 D. Except as otherwise specifically provided by  
4 law:

5 (1) the unexpended balance from the proceeds  
6 of severance tax bonds issued pursuant to this act for a  
7 project shall revert to the severance tax bonding fund no later  
8 than the following dates:

9 (a) for a project for which severance  
10 tax bonds were issued to match federal grants, six months after  
11 completion of the project;

12 (b) for a project for which severance  
13 tax bonds were issued to purchase vehicles, including emergency  
14 vehicles and other vehicles that require special equipment;  
15 heavy equipment; books; educational technology; or other  
16 equipment or furniture that is not related to a more inclusive  
17 construction or renovation project, at the end of the fiscal  
18 year two years following the fiscal year in which the severance  
19 tax bonds were issued for the purchase; and

20 (c) for any other project for which  
21 severance tax bonds were issued, within six months of  
22 completion of the project, but no later than the end of fiscal  
23 year 2013; and

24 (2) all remaining balances from the proceeds  
25 of severance tax bonds issued for a project pursuant to this

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1 act shall revert to the severance tax bonding fund three months  
2 after the latest reversion date specified for that type of  
3 project in Paragraph (1) of this subsection, whether or not any  
4 of the remaining balances are subject to a contractual  
5 obligation to third parties.

6 E. Except for appropriations to the capital program  
7 fund, money from severance tax bond proceeds provided pursuant  
8 to this act shall not be used to pay indirect project costs.

9 F. For the purpose of this section, "unexpended  
10 balance" means the remainder of an appropriation after  
11 reserving for unpaid costs and expenses covered by binding  
12 written obligations to third parties.

13 Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--  
14 LIMITATIONS--REVERSIONS.--

15 A. Except as otherwise specifically provided by  
16 law:

17 (1) the unexpended balance of an appropriation  
18 made in this act from the general fund or other state fund  
19 shall revert no later than the following dates:

20 (a) for a project for which an  
21 appropriation was made to match federal grants, six months  
22 after completion of the project;

23 (b) for a project for which an  
24 appropriation was made to purchase vehicles, including  
25 emergency vehicles and other vehicles that require special

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1 equipment; heavy equipment; books; educational technology; or  
2 other equipment or furniture that is not related to a more  
3 inclusive construction or renovation project, at the end of the  
4 fiscal year two years following the fiscal year in which the  
5 appropriation was made for the purchase; and

6 (c) for any other project for which an  
7 appropriation was made, within six months of completion of the  
8 project, but no later than the end of fiscal year 2013; and

9 (2) all remaining balances from an  
10 appropriation made in this act for a project shall revert three  
11 months after the latest reversion date specified for that type  
12 of project in Paragraph (1) of this subsection, whether or not  
13 any of the remaining balances are subject to a contractual  
14 obligation to third parties.

15 B. Upon certification by an agency that money from  
16 the general fund is needed for a purpose specified in this act,  
17 the secretary of finance and administration shall disburse such  
18 amount of the appropriation for that project as is necessary to  
19 meet that need.

20 C. Except for appropriations to the capital program  
21 fund, money from appropriations made in this act shall not be  
22 used to pay indirect project costs.

23 D. Except as provided in Subsection F of this  
24 section, the balance of an appropriation made from the general  
25 fund shall revert in the time frame set forth in Subsection A

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1 of this section to the capital projects fund.

2 E. Except as provided in Subsection F of this  
3 section, the balance of an appropriation made from other state  
4 funds shall revert in the time frame set forth in Subsection A  
5 of this section to the originating fund.

6 F. The balance of an appropriation made from the  
7 general fund or other state fund to the Indian affairs  
8 department or the aging and long-term services department for a  
9 project located on lands of an Indian nation, tribe or pueblo  
10 shall revert in the time frame set forth in Subsection A of  
11 this section to the tribal infrastructure project fund.

12 G. For the purpose of this section, "unexpended  
13 balance" means the remainder of an appropriation after  
14 reserving for unpaid costs and expenses covered by binding  
15 written obligations to third parties.

16 Section 3. ADMINISTRATIVE OFFICE OF THE COURTS PROJECT--  
17 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
18 of this act, upon certification by the administrative office of  
19 the courts that the need exists for the issuance of the bonds,  
20 nine hundred thousand dollars (\$900,000) is appropriated to the  
21 administrative office of the courts to furnish, equip and make  
22 improvements, including assistive listening devices, flooring,  
23 air conditioning units and security system enhancements, for  
24 the administrative office of the courts and magistrate and  
25 district courts statewide.

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1           Section 4.   AGING AND LONG-TERM SERVICES DEPARTMENT  
2 PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of  
3 Section 1 of this act, upon certification by the aging and  
4 long-term services department that the need exists for the  
5 issuance of the bonds, two million seven hundred thousand  
6 dollars (\$2,700,000) is appropriated to the aging and long-term  
7 services department to renovate senior centers for code  
8 compliance statewide.

9           Section 5.   STATE ARMORY BOARD PROJECT--SEVERANCE TAX  
10 BONDS.--Pursuant to the provisions of Section 1 of this act,  
11 upon certification by the state armory board that the need  
12 exists for the issuance of the bonds, five hundred thousand  
13 dollars (\$500,000) is appropriated to the state armory board  
14 for upgrades to existing facilities and staging areas and to  
15 demolish old facilities at armories statewide.

16           Section 6.   BERNALILLO COUNTY METROPOLITAN COURT  
17 PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of  
18 Section 1 of this act, upon certification by the Bernalillo  
19 county metropolitan court that the need exists for the issuance  
20 of the bonds, the following amounts are appropriated to the  
21 Bernalillo county metropolitan court for the following  
22 purposes:

- 23                   1.   one million four hundred thousand dollars  
24                   (\$1,400,000) to plan, design and construct courtrooms and  
25                   chambers for the fourth floor of the Bernalillo county

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1 metropolitan courthouse in Bernalillo county; and

2           2. one hundred sixty-two thousand dollars  
3 (\$162,000) to plan, design, construct and furnish classrooms  
4 for the driving while impaired and driver improvement schools  
5 in the metro shops in Bernalillo county.

6           Section 7. CAPITAL PROGRAM FUND PROJECTS--SEVERANCE TAX  
7 BONDS.--Pursuant to the provisions of Section 1 of this act,  
8 upon certification by the capital program fund that the need  
9 exists for the issuance of the bonds, the following amounts are  
10 appropriated to the capital program fund for the following  
11 purposes:

12           1. five hundred thousand dollars (\$500,000) for  
13 improvements to the TIWA building, including a fire suppression  
14 system, ceiling tiles, lighting and installation of an  
15 electrical generator backup system, in Albuquerque in  
16 Bernalillo county;

17           2. one million dollars (\$1,000,000) to relocate the  
18 youth diagnostic and development center to the Los Lunas campus  
19 in Valencia county;

20           3. four hundred thousand dollars (\$400,000) to  
21 plan, design and construct improvements, including  
22 reconfiguring office layout, remodeling restrooms and replacing  
23 the heating, ventilation and air conditioning system, in the  
24 James Murray building in Hobbs in Lea county;

25           4. two hundred thousand dollars (\$200,000) to plan,

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1 design and construct renovations to the Harriet Sammons  
2 building in Farmington in San Juan county;

3 5. one hundred seventy-five thousand dollars  
4 (\$175,000) for repairs and improvements to the Louise Brown  
5 building, including site improvements, repaving and restriping  
6 the parking lot and replacing the property fence, in Bernalillo  
7 in Sandoval county;

8 6. four million dollars (\$4,000,000) to purchase  
9 land and to plan and design a building complex and parking  
10 structure for the health and human services complex in Santa Fe  
11 county;

12 7. one million nine hundred thousand dollars  
13 (\$1,900,000) to purchase and install information technology,  
14 including related equipment, furniture and infrastructure, in  
15 the data center in the Simms building in Santa Fe in Santa Fe  
16 county;

17 8. one million dollars (\$1,000,000) to plan, design  
18 and construct an addition to the north office for the homeland  
19 security and emergency management department center in Santa Fe  
20 in Santa Fe county;

21 9. three million dollars (\$3,000,000) for a  
22 development plan, including needed facility renovations and  
23 improvements, for the infill and redevelopment of the south  
24 capitol campus complex in Santa Fe in Santa Fe county;

25 10. one hundred thirty-five thousand dollars

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1 (\$135,000) to construct a fire investigation center for  
2 evidence processing and storage at the New Mexico firefighters  
3 training academy in Socorro in Socorro county for use by the  
4 fire marshal division;

5 11. eight million dollars (\$8,000,000) for  
6 repairing, renovating and equipping correctional facilities  
7 statewide;

8 12. five million dollars (\$5,000,000) for health  
9 and safety improvements and to purchase and equip vehicles for  
10 department of health patient facilities statewide;

11 13. five hundred thousand dollars (\$500,000) for  
12 renovations to state-owned buildings occupied by the department  
13 of public safety statewide;

14 14. four hundred thousand dollars (\$400,000) for a  
15 master plan based on the Missouri model for juvenile justice  
16 facilities statewide;

17 15. three hundred thousand dollars (\$300,000) to  
18 plan, design and renovate juvenile justice facilities statewide  
19 based on the Missouri model, including the John Paul Taylor  
20 center;

21 16. five hundred thousand dollars (\$500,000) for  
22 security systems and related improvements for juvenile justice  
23 facilities statewide;

24 17. two million one hundred thousand dollars  
25 (\$2,100,000) for demolition and decommissioning of state

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1 buildings statewide;

2 18. five million dollars (\$5,000,000) for repairs,  
3 renovations, deferred maintenance and infrastructure  
4 improvements, including demolition, at state buildings  
5 statewide;

6 19. three million six hundred thousand dollars  
7 (\$3,600,000) to plan, design, construct and equip security  
8 system improvements at the western and central New Mexico  
9 correctional facilities in Cibola and Valencia counties;

10 20. five hundred thousand dollars (\$500,000) for  
11 improvements to workforce solutions department offices  
12 statewide, including roofs; heating, ventilation and air  
13 conditioning systems; deferred maintenance; and improvements to  
14 comply with the requirements of the Americans with Disabilities  
15 Act of 1990;

16 21. three hundred thousand dollars (\$300,000) to  
17 plan, design, construct and equip a parking area, including  
18 lighting and landscaping, for the Fred Luna building in Belen  
19 in Valencia county; and

20 22. six million dollars (\$6,000,000) to plan,  
21 design and construct a veterans' skilled-nursing Alzheimer's  
22 unit at the New Mexico state veterans' home in Truth or  
23 Consequences in Sierra county and facilities at the New Mexico  
24 behavioral health institute in Las Vegas in San Miguel county.

25 Section 8. COURT OF APPEALS PROJECT--SEVERANCE TAX

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1 BONDS.--Pursuant to the provisions of Section 1 of this act,  
2 upon certification by the court of appeals that the need exists  
3 for the issuance of the bonds, four hundred thousand dollars  
4 (\$400,000) is appropriated to the court of appeals for  
5 furniture, fixtures and equipment at the Pamela B. Minzner  
6 court of appeals law center in Albuquerque in Bernalillo  
7 county.

8 Section 9. CULTURAL AFFAIRS DEPARTMENT PROJECTS--

9 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
10 of this act, upon certification by the cultural affairs  
11 department that the need exists for the issuance of the bonds,  
12 the following amounts are appropriated to the cultural affairs  
13 department for the following purposes:

14 1. three million dollars (\$3,000,000) for repairs  
15 and improvements to cultural affairs department facilities and  
16 state museums and monuments, including artifacts and artwork,  
17 statewide; and

18 2. four million dollars (\$4,000,000) to continue  
19 planning, designing and constructing facilities and facility  
20 improvements, including communications infrastructure, signage  
21 and exhibits, at museums and monuments statewide.

22 Section 10. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION  
23 PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of  
24 Section 1 of this act, upon certification by the Cumbres and  
25 Toltec scenic railroad commission that the need exists for the

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1 issuance of the bonds, the following amounts are appropriated  
2 to the Cumbres and Toltec scenic railroad commission for the  
3 following purposes:

4 1. five hundred thousand dollars (\$500,000) to  
5 upgrade the track and railbed of the Cumbres and Toltec scenic  
6 railroad in Rio Arriba county; and

7 2. one hundred thousand dollars (\$100,000) to plan  
8 and design a visitors' center for the Cumbres and Toltec scenic  
9 railroad in Chama in Rio Arriba county.

10 Section 11. ELEVENTH JUDICIAL DISTRICT COURT PROJECT--  
11 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
12 of this act, upon certification by the eleventh judicial  
13 district court that the need exists for the issuance of the  
14 bonds, three hundred thousand dollars (\$300,000) is  
15 appropriated to the eleventh judicial district court to furnish  
16 and equip, including security and camera systems, the eleventh  
17 judicial court in San Juan county.

18 Section 12. ECONOMIC DEVELOPMENT DEPARTMENT PROJECT--  
19 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
20 of this act, upon certification by the economic development  
21 department that the need exists for the issuance of the bonds,  
22 one million dollars (\$1,000,000) is appropriated to the  
23 economic development department for mainstreet infrastructure  
24 projects statewide.

25 Section 13. PUBLIC EDUCATION DEPARTMENT PROJECTS--

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1 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
2 of this act, upon certification by the public education  
3 department that the need exists for the issuance of the bonds,  
4 the following amounts are appropriated to the public education  
5 department for the following purposes:

- 6 1. two million dollars (\$2,000,000) to construct  
7 pre-kindergarten classrooms statewide; and
- 8 2. two million dollars (\$2,000,000) to purchase and  
9 equip school buses statewide.

10 Section 14. STATE PARKS DIVISION OF THE ENERGY, MINERALS  
11 AND NATURAL RESOURCES DEPARTMENT PROJECT--SEVERANCE TAX  
12 BONDS.--Pursuant to the provisions of Section 1 of this act,  
13 upon certification by the state parks division of the energy,  
14 minerals and natural resources department that the need exists  
15 for the issuance of the bonds, two million dollars (\$2,000,000)  
16 is appropriated to the state parks division of the energy,  
17 minerals and natural resources department to construct, equip  
18 and furnish repairs and improvements to state parks, including  
19 parking lots and roads, statewide.

20 Section 15. OFFICE OF THE STATE ENGINEER PROJECTS--  
21 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
22 of this act, upon certification by the office of the state  
23 engineer that the need exists for the issuance of the bonds,  
24 the following amounts are appropriated to the office of the  
25 state engineer for the following purposes:

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1           1. two million dollars (\$2,000,000) to plan, design  
2 and construct the removal and repair of unsafe dams statewide,  
3 including completing Ponderosa dam; and

4           2. five hundred thousand dollars (\$500,000) to  
5 purchase and install ground water and surface water meters for  
6 measurement statewide.

7           Section 16. STATE FAIR COMMISSION PROJECT--SEVERANCE TAX  
8 BONDS.--Pursuant to the provisions of Section 1 of this act,  
9 upon certification by the state fair commission that the need  
10 exists for the issuance of the bonds, five million dollars  
11 (\$5,000,000) is appropriated to the state fair commission for a  
12 facilities master plan and to plan, design, construct, equip  
13 and furnish improvements to facilities and grounds at the New  
14 Mexico state fairgrounds in Albuquerque in Bernalillo county.

15           Section 17. DEPARTMENT OF FINANCE AND ADMINISTRATION  
16 PROJECT--AFFORDABLE HOUSING ACT--SEVERANCE TAX BONDS.--Pursuant  
17 to the provisions of Section 1 of this act, upon certification  
18 by the department of finance and administration that the need  
19 exists for the issuance of the bonds, one million dollars  
20 (\$1,000,000) is appropriated to the department of finance and  
21 administration for infrastructure projects statewide pursuant  
22 to the Affordable Housing Act.

23           Section 18. DEPARTMENT OF GAME AND FISH PROJECT--  
24 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
25 of this act, upon certification by the department of game and

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1 fish that the need exists for the issuance of the bonds, one  
2 million dollars (\$1,000,000) is appropriated to the department  
3 of game and fish for renovations to the Lake Roberts dam and  
4 spillway in Grant county.

5 Section 19. DEPARTMENT OF INFORMATION TECHNOLOGY  
6 PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of  
7 Section 1 of this act, upon certification by the department of  
8 information technology that the need exists for the issuance of  
9 the bonds, the following amounts are appropriated to the  
10 department of information technology for the following  
11 purposes:

12 1. eight hundred thousand dollars (\$800,000) for  
13 equipment upgrades to the telecommunications network statewide;

14 2. nine hundred thousand dollars (\$900,000) for  
15 telephone system upgrades, including replacing switches,  
16 statewide;

17 3. three million dollars (\$3,000,000) for  
18 improvements and equipment to upgrade the technology and  
19 infrastructure to the enterprise email system for state  
20 government agencies statewide; and

21 4. one million dollars (\$1,000,000) to plan, design  
22 and construct the digital microwave conversion project to  
23 convert from an analog to a digital microwave network  
24 statewide.

25 Section 20. TRIBAL INFRASTRUCTURE PROJECT FUND PROJECT--  
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1 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1  
2 of this act, upon certification by the department of finance  
3 and administration that the need exists for the issuance of the  
4 bonds, two million five hundred thousand dollars (\$2,500,000)  
5 is appropriated to the tribal infrastructure project fund for  
6 expenditure in fiscal year 2009 and subsequent fiscal years for  
7 qualified projects pursuant to the provisions of the Tribal  
8 Infrastructure Act.

9 Section 21. DRINKING WATER STATE REVOLVING LOAN FUND  
10 PROJECT--GENERAL FUND.--One million five hundred thousand  
11 dollars (\$1,500,000) is appropriated from the general fund to  
12 the drinking water state revolving loan fund for expenditure in  
13 fiscal year 2009 and subsequent fiscal years to carry out the  
14 provisions of the Drinking Water State Revolving Loan Fund Act  
15 and to provide state matching funds for federal Safe Drinking  
16 Water Act projects.

17 Section 22. EDUCATIONAL RETIREMENT BOARD PROJECT--  
18 EDUCATIONAL RETIREMENT FUND.--Two million five hundred thousand  
19 dollars (\$2,500,000) is appropriated from the educational  
20 retirement fund to the educational retirement board for  
21 expenditure in fiscal years 2009 through 2013, unless otherwise  
22 provided in Section 2 of this act, to acquire land for and  
23 plan, design, construct and renovate a building for the  
24 educational retirement board in Santa Fe in Santa Fe county.

25 Section 23. DEPARTMENT OF GAME AND FISH PROJECT--GAME

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1 PROTECTION FUND.--Seven hundred thousand dollars (\$700,000) is  
2 appropriated from the game protection fund to the department of  
3 game and fish for expenditure in fiscal years 2009 through  
4 2013, unless otherwise specified in Section 2 of this act, to  
5 purchase an aircraft.

6 Section 24. MINERS' HOSPITAL PROJECT--MINERS' TRUST  
7 FUND.--One million dollars (\$1,000,000) is appropriated from  
8 the miners' trust fund to the board of trustees of the miners'  
9 hospital for expenditure in fiscal years 2009 through 2013,  
10 unless otherwise provided for in Section 2 of this act, for an  
11 automated pharmaceutical dispensing system at the miners'  
12 hospital in Raton in Colfax county.

13 Section 25. DEPARTMENT OF TRANSPORTATION PROJECTS--STATE  
14 ROAD FUND.--One million four hundred fifty thousand dollars  
15 (\$1,450,000) is appropriated from the state road fund to the  
16 department of transportation for expenditure in fiscal years  
17 2009 through 2013, unless otherwise provided for in Section 2  
18 of this act, in the following amounts for the following  
19 purposes:

20 1. one hundred thousand dollars (\$100,000) for  
21 improvements and expansion of the administrative services  
22 facility in district 2, including electrical, mechanical and  
23 communications systems, in Roswell in Chaves county;

24 2. fifty thousand dollars (\$50,000) for  
25 improvements to the hilltop construction office in district 3

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1 in Albuquerque in Bernalillo county;

2 3. nine hundred fifty thousand dollars (\$950,000)  
3 to plan, design and construct the patrol facility in district 5  
4 in Tierra Amarilla in Rio Arriba county; and

5 4. three hundred fifty thousand dollars (\$350,000)  
6 for purchase, installation and construction of salt storage  
7 facilities statewide.

8 Section 26. PROJECT SCOPE--EXPENDITURES.--If an  
9 appropriation for a project authorized in this act is not  
10 sufficient to complete all the purposes specified, the  
11 appropriation may be expended for any portion of the purposes  
12 specified in the appropriation. Expenditures shall not be made  
13 for purposes other than those specified in the appropriation.

14 Section 27. ART IN PUBLIC PLACES.--Pursuant to Section  
15 13-4A-4 NMSA 1978 and where applicable, the appropriations  
16 authorized in this act include one percent for the art in  
17 public places fund.

18 Section 28. EMERGENCY.--It is necessary for the public  
19 peace, health and safety that this act take effect  
20 immediately.

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